

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
GREENVILLE DIVISION**

IN RE:)	CASE NO.
)	
CAH ACQUISITION COMPANY, #1, LLC d/b/a Washington County Hospital,)	19-00730-5-JNC
)	
DEBTOR)	CHAPTER 11

**BANKRUPTCY ADMINISTRATOR’S MOTION TO PERMIT PUBLIC ACCESS TO
RESTRICTED DOCKET ENTRIES**

NOW COMES the Bankruptcy Administrator for the Eastern District of North Carolina (“BA”), by and through her undersigned counsel, and respectfully files this Motion Requesting the Court Unseal Restricted Docket Entries; and, in support thereof, shows the Court the following:

1. “The Bankruptcy Administrator ‘may raise and may appear and be heard on any issue in any case under title 11, United States Code, but may not file a plan pursuant to section 1121(c) of such title.’ Judicial Improvements Act of 1990 § 317(b), Pub. L. No. 101-650, 104 Stat. 5089 (1990). See 11 U.S.C. § 704(b); H.R. Rep. No. 95-595, at 88, reprinted in 1978 U.S.C.C.A.N. 5963, 6049.” *Lynch v. Jackson*, 845 F.3d 147, 149 n.1 (4th Cir. 2017).

2. On February 19, 2019, an involuntary Chapter 7 petition was filed on behalf of CAH Acquisition Company, #1, LLC d/b/a Washington County Hospital.

3. On April 17, 2019, the Court entered an Order approving the appointment of a patient care ombudsmen (“PCO” or “Ombudsman”), pursuant to 11 U.S.C. § 333(b) [DE # 158]. This Order provided the following regarding the Ombudsman’s reporting requirements: “Further, the requirement of FRBP 2015.1 that the ombudsman’s report be served on patients

at each facility is waived. The report shall be posted at each facility and will be available on the court's website."

4. On August 8, 2019, the Court entered an Order Granting the Patient Care Ombudsman's Motion for Entry of Order Permitting Access to Confidential Patient Records ("PHI Order") [DE # 372]. The PHI Order contained the following provision relating to the protection of protected health information ("PHI") within the Ombudsman's reports: "If the Ombudsman must disclose any PHI in a report, the report must be filed under seal."

5. Each Notice of the PCO's reports contains the following language: "Per the Appointment Order, if you would like a copy of the Report, it will be posted at each facility, will be available on the court's website or you may contact the following person (who will provide a copy free of charge): Carla Greenberg, Paralegal...." See DE #s 274, 360, 448, and 566.

6. To date, the PCO has filed three reports: August 16, 2019 [DE # 396]; October 17, 2019 [DE # 476]; and December 16, 2019 [DE # 596]. (Collectively referred to as "Reports"). The PCO has not sought to file any of the Reports under seal or to otherwise restrict access as provided for within the PHI Order, 11 U.S.C. § 107, or FRBP 9037.

7. Upon information and belief, the Reports are not publicly accessible on PACER and have not been published on the court's website.

8. A review of the Reports does not reflect the existence of any non-anonymized PHI, or other information that would warrant the sealing and/or restricting of the Reports from public access pursuant to HIPPA, Section 107, and/or Fed. R. Bank. P. 9037.

9. Upon information and belief, the Reports are of public interest and members of the press have been inquiring about access to the Reports.

10. The BA respectfully requests the Court remove all restrictions relating to the public access of the Reports and for the Reports to be published on the court's website in accordance with the Court's Order of April 17, 2019.

11. The PCO supports this request.

WHEREFORE, based upon the foregoing, the Bankruptcy Administrator respectfully requests the Court permit public access to the patient care ombudsman's reports; and, requests such other and further relief the Court may deem just and proper.

Respectfully submitted, this 18th day of December, 2019.

MARJORIE K. LYNCH,
US BANKRUPTCY ADMINISTRATOR – EDNC

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CERTIFICATE OF SERVICE

I, Rick P. Hinson, of 434 Fayetteville Street, Suite 640, Raleigh, North Carolina, 27601, certify:

That I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age.

That on this day, I served copies of the foregoing document electronically upon the following:

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I certify under penalty of perjury that the foregoing is true and correct.

Dated this 18th day of December 2019.

By: /s/Rick P. Hinson
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